IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 414 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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YUSUF HAJI HASAM RAVALIA

Versus

GUJARAT ELECTRICITY BOARD 3RD SPECIAL LAND ACQUISITION

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Appearance:

1. Civil Revision Application No. 414 of 2000

MR BD KARIA for Petitioner No. 1

MR AD OZA for Respondent No. 1

MR AM PAREKH for Respondent No. 2-3

MR GA SURAIYA for Respondent No. 2-3

RULE SERVED BY DS for Respondent No. 4

RULE SERVED for Respondent No. 5-9

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CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 27/11/2002

ORAL JUDGEMENT

#. The present petitioner is the original defendant No.10 of Regular Civil Suit No.262 of 1985 pending in the Court of the Civil Judge (Senior Division) at Porbandar. The said suit is filed by the Gujarat Electricity Board against various defendants. The present petitioner is one of the defendants. In the aforesaid suit, an application was given by respondent Nos.2 and 3 herein for allowing them to be joined as party defendants in the said suit. In the said application, the original applicants stated that, they are the legal heirs of the original defendant No.1 - Ali Mamad and the property in question, for which the suit has been filed by the Gujarat Electricity Board, belonged to their grandfather, who is now deceased and, accordingly, the applicants have also right, title and interest in the suit property. By filing the said application, it is stated that, they are necessary parties to the said suit, and, therefore, they may be permitted to be joined as codefendants, so that, they can effectively contest the suit. It is also averred in the said application that, at the initial stage when the suit was filed, deceased father of the applicants, namely, Ali Mamad, was shown as defendant No.1. But, thereafter, the plaintiff gave application Exh.35 to the effect that since the deceased died before the filing of the suit, his name be deleted from the suit proceedings, as, he has got no interest in the suit property, and his name, along with the names of the original defendant nos. 2 and 3 was ordered to be deleted from the proceedings. Subsequently, the application Exh.265 is filed by the original applicants, who are respondent nos. 2 and 3 herein.

#. The learned trial Judge, after considering the facts and circumstances of the case, came to the conclusion that, initially, the father of the applicants, namely, Ali Mamad was already joined as defendant No.1, but, thereafter, the plaintiff requested the Court to delete him. The trial Court also found that the applicants are the legal heirs of the said deceased - Ali Mamad. The trial Court also found that the dispute raised by the original defendant No.10, present petitioner, to the effect that Ali Mamad Karim had sold the property to him, is a matter of evidence and that the said dispute cannot be decided at this interim stage.

#. Considering the reasoning given by the trial Court, in my view, it cannot be said that the applicants are not necessary or proper parties in the suit, especially when their father was originally joined by the plaintiff as

defendant No.1 in the suit. Considering the reasoning of the trial Court, in my view, no interference of this Court is called for against the order as the trial Court has given cogent reasons in the impugned order. In view of the same, I do not find any substance in this revision and the same is dismissed. Rule is discharged with no order as to costs. Ad-interim relief granted earlier stands vacated.

(P.B.Majmudar,J)
(pathan)